

Florida Real Property and Business Litigation Report
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Burns v. Town of Palm Beach, Case No. 18-14515 (11th Cir. 2021).

The Eleventh Circuit declines to declare as a matter of law whether personal residences are a form of personal expression protected by the First Amendment but reaffirms the ability of municipal architectural review commissions to prohibit development so long as sufficient criteria are employed in the decision.

Peoples Gas System v. Posen Construction, Inc., Case No. SC19-1305 (Fla. 2021).

The Underground Facility Damage Prevention and Safety Act, Florida Statute section 556.101 *et seq.*, creates a standalone cause of action which sounds in negligence and which is subject to proof of proximate causation requirements.

Russell v. Hydroprocessing Associates, LLC, Case No. 1D20-1387 (Fla. 1st DCA 2021).

A trial court judge presented with objections to enforcement of an arbitration agreement must decide whether the agreement was signed by the party and also whether the agreement is enforceable.

Giles v. Recovery Associates, LLC, Case No. 1D21-324 (Fla. 1st DCA 2021).

Florida's public policy of converting certain unilateral attorney's fees provisions into reciprocal prevailing party provisions does not overcome a contractual choice of controlling law of a forum state that does not treat unilateral provisions as reciprocal.

Amiri v. McGreal, Case No. 2D20-953 (Fla. 2d DCA 2021).

The Second District follows *Camena Invs. & Prop. Mgmt. Corp. v. Cross*, 791 So. 2d 595, 596 (Fla. 3d DCA 2001), and holds that a party filing an action for possession under Florida Statute 83.21 may later file a separate action for damages.

Cosentino v. Sarasota County, Case No. 2D20-1355 (Fla. 2d DCA 2021).

Substantial - not strict - compliance with the notice provisions of Florida Statute section 336.10 is required for abandonment of a roadway.

Volynsky v. Park Tree Investments 21, LLC, Case No. 3D19-2197 (Fla. 3d DCA 2021).

A trial court need not conduct a hearing an evidentiary hearing on objections to a foreclosure sale if the objections are facially deficient.

Lowery v. McBee, Case No. 4D20-1986 (Fla. 4th DCA 2021).

A social media post is not libelous until posted *and* accessed, and a publicly accessible post is accessible throughout Florida.